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Combating defamation of religions

Report of the Secretary-General

Summary

The present report is submitted in accordance with General Assembly resolution 64/156 and focuses on the implementation of the resolution, including the correlation between defamation of religions and the intersection of religion and race, the upsurge in incitement, intolerance and hatred in many parts of the world and steps taken by States to combat this phenomenon.

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I. Introduction

1. The General Assembly, in resolution 64/156, noted with deep concern the serious instances of intolerance, discrimination, acts of violence and incitement hereto based on religion or belief in many parts of the world, as well as the negative projection of certain religions in the media and the targeting of religious symbols. The Assembly also expressed concern over the frequent and erroneous association of Islam with human rights violations and terrorism and the stigmatization of persons with certain ethnic and religious backgrounds, particularly Muslim minorities, in the aftermath of the tragic events of 11 September 2001. The General Assembly urged States to take a series of measures to prevent and protect against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions and from incitement to religious hatred in general.

2. In paragraph 27 of resolution 64/156, the General Assembly requested the Secretary-General to submit a report to the Assembly at its sixty-fifth session on the implementation of the resolution, including the correlation between defamation of religions and the intersection of religion and race, the upsurge in incitement, intolerance and hatred in many parts of the world and steps taken by States to combat the phenomenon. The present report is submitted pursuant to that request.

3. Resolution 64/156 was adopted by a vote of 80 to 61, with 42 abstentions, attesting to the diversity of views in the international community on the subject. In explanations before and after the vote, States supporting the resolution pointed out that defamation of religions remained a serious concern and that constructive dialogue was needed to address it. States opposing the adoption of the resolution voiced concern that it could lead to a stifling of freedom of expression or argued that the concept of defamation of religions was inconsistent with human rights law, which protected individuals and not religions or belief systems. Some delegations also expressed reservations about the association of defamation of religions with racial discrimination.

4. On 2 October 2009, the Human Rights Council adopted, without a vote, resolution 12/16 on freedom of opinion and expression. Some of the paragraphs in the resolution can be interpreted as being relevant to the debate on the concept of defamation of religions.

5. While the scope of the present report is limited to General Assembly resolution 64/156, attention is drawn to previous reports on combating defamation of religions submitted, inter alia, by the Secretary-General (for example, A/63/365 and A/64/209), the United Nations High Commissioner for Human Rights and relevant special procedures of the Human Rights Council.

6. In the report submitted in accordance with resolution 63/171 (A/64/209), the Secretary-General noted that treaty bodies and special procedures had reported about serious instances of intolerance, discrimination and acts of violence based on religion or belief, such as the derogatory stereotyping and stigmatization of persons based on their religion or belief, and the negative projection and targeting of certain religions and religious symbols. They had recommended that strong emphasis be put on the implementation of the core obligations of States relating to the protection of individuals and groups of individuals against violations of their rights incurred by hate speech.

7. The Secretary-General expressed the view that many practices, including dissemination, incitement, stereotyping, profiling, stigmatization and the legitimation of discrimination were within the purview of the Convention on the Elimination of All Forms of Racial Discrimination. He also recalled the joint statement by a number of special procedures of the Human Rights Council, according to whom the ultimate goal was to find the most effective ways through which to protect individuals against advocacy of hatred and violence by others (see A/HRC/12/38, paras. 33-42). Hate speech was but a symptom, an external manifestation of something much more profound, which was intolerance and bigotry. Legal responses, such as restrictions on freedom of expression alone, were far from being sufficient to bring about real changes in mindsets, perceptions and discourse. In order to tackle the root causes of intolerance, a much broader set of policy measures was needed to cover the areas of intercultural dialogue as well as education for tolerance and diversity.

8. The Secretary-General noted, in this regard, the various activities of the United Nations Alliance of Civilizations in the areas of media, education, migration and youth. These included the creation of an online resource (www.globalexpertfinder.org) designed to connect journalists with a wide range of international experts in times of divisive intercultural tensions; the international fellowships programme of the United Nations Alliance of Civilizations, which enables young professionals from Europe, the United States of America and countries with a Muslim majority to learn about each other's societies and values; the creation of the "Dialogue Café" initiative, a global network of individuals from different cultural backgrounds who, via videoconference, share ideas and learn about each other; the education about religions and beliefs online community, which encourages the exchange of good practices in learning about diversity and tolerance; and the Youth Solidarity Fund's support for concrete projects involving youth in intercultural dialogue.

9. In addition to the reports requested by the General Assembly, the Human Rights Council requested the United Nations High Commissioner for Human Rights to report on the implementation of its resolution 10/22 on defamation of religions. The United Nations High Commissioner submitted her report (A/HRC/13/57) to the thirteenth session of the Council and concluded that the information received from States, regional organizations, United Nations entities, human rights treaty bodies and special procedures of the Council raised concern about acts of violence, protracted discrimination and stigmatization on the basis of religion or belief. Some contributions also suggested a negative portrayal of religion, as well as incitement to ethnic and religious hatred by some political parties and some media. In fact, religious minorities seemed to be frequent targets of abusive, violent and repetitive criticism against their group, often as a result of entrenched negative stereotypes.

10. Specific reference is also made to the study of the United Nations High Commissioner compiling existing legislation and jurisprudence concerning defamation of and contempt for religions (A/HRC/9/25) and her report submitted pursuant to Council resolution 7/19 on defamation of religions (A/HRC/9/7), both of which were submitted to the Council at its ninth session. From the compilation of contributions received from States, regional and non-governmental organizations, the United Nations High Commissioner concluded that most replies reflected the concern that there was a growing trend towards the negative portrayal of religion in the media and in political discourse and towards policies and practices that seemed targeted at persons because of their religion (para. 64).

11. Pursuant to Council resolution 7/19, the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted to the ninth session of the Council a report on the manifestations of defamation of religions, in particular on the serious implications of Islamophobia on the enjoyment of all rights (A/HRC/9/12). The current Special Rapporteur has submitted reports, pursuant to Council resolutions 10/22 and 13/16, on the manifestations of defamation of religions, in particular on the serious implications of Islamophobia on the enjoyment of all rights by their followers, to the twelfth (A/HRC/12/38) and the fifteenth (A/HRC/15/53) sessions of the Council.

12. Attention is further drawn to reports of the Secretary-General, the United Nations High Commissioner and the relevant special procedures of the Human Rights Council, including on incitement to racial and religious hatred and violence (A/HRC/2/3, A/HRC/10/31/Add.3); promotion of tolerance (A/HRC/12/36); protection of minorities (A/HRC/10/38 and Corr.1, A/HRC/13/23); human rights and counter-terrorism (A/64/186, A/HRC/13/36); intercultural and interreligious dialogue (A/64/325); and the elimination of religious intolerance (A/HRC/13/40, A/HRC/10/8). These reports, prepared at the request of the General Assembly and the Council, have provided additional context and a useful background for the present report.

13. In respect of General Assembly resolution 64/156, notes verbales were sent to Member States to solicit information by 7 May 2010 on measures and activities undertaken to combat defamation of religions. The present report contains information[1] received from States on various elements described in the resolution. In addition, the report updates the previous report of the Secretary-General on the topic (A/64/209) and the report of the United Nations High Commissioner (A/HRC/13/57) by informing on the latest developments at the level of the Office of the United Nations High Commissioner for Human Rights (OHCHR), human rights treaty bodies and special procedures. The intersection of religion and race is addressed throughout the chapters below.

II. Information received from Member States

Algeria

[Original: French]

14. Algeria gave information on the relevant constitutional provisions and international human rights instruments that it had ratified, and which are directly applicable and can be invoked by citizens and migrant workers. In the area of national legislation, it reported that Ordinance 06-03 established the conditions for practising religions other than Islam. The Ordinance guaranteed freedom of religion, as well as tolerance and respect among different religions and the protection of non-Muslim religious organizations by the State.

15. Article 298 of the Criminal Code declares punishable with imprisonment and a fine all instances of defamation or insults committed against one or more persons belonging to an ethnic or philosophic group, or to a religion, provided such

[1] The original replies are available for consultation at the Secretariat.

defamation is intended to incite to hatred among citizens or residents. Any offence to the Prophet or denigration of Islam and its teachings, by whichever medium, is punishable with three to five years' imprisonment, as well as a fine.

16. The voluntary degradation, destruction or profanation of places of worship is also punishable with deprivation of liberty and a fine, in accordance with article 160 ter of the Criminal Code. Prison sentences and fines are also established for the desecration of cemeteries.

17. Ordinance 90-07 on the right to information imposes an obligation on reporters to refrain from directly or indirectly disseminating racist, intolerant or violent messages. Article 77 of the Ordinance establishes fines and prison sentences for reporters who insult Islam or other holy religions. Article 99 grants tribunals the authority to order the provisional or definitive closure of information outlets acting in violation of the ordinance.

Azerbaijan

[Original: Russian]

18. Azerbaijan reported on its Law on Religious Freedom, which stipulates that freedom of religion can only be restricted by law for the protection of democracy, public safety, health, morals or the rights and freedoms of others.

19. The main executive body with regard to issues related to religion is the State Committee for Work with Religious Organizations. In 2007, in order to enhance dialogue and cooperation, a Consultative Council was established under the Chairman of the Committee, with the participation of the leaders of the main religious denominations.

20. The Committee, together with the Council, organized over 20 seminars to prevent religious intolerance. Routinely, seminars, lectures and round tables are held to promote tolerance and prevent incitement. In November 2009, an international conference on interreligious dialogue was held in Baku.

Bosnia and Herzegovina

[Original: English]

21. Bosnia and Herzegovina emphasized its heritage of ethnic, cultural and religious diversity and its commitment to multicultural dialogue. Information was provided on relevant constitutional and legislative provisions guaranteeing equality and respect for human rights. The European Convention on Human Rights and Fundamental Freedoms, which, in its article 14, prohibits any form of discrimination, is directly applicable, as is its Protocol 12 on the general prohibition of discrimination. A law on anti-discrimination was adopted to create a domestic legal framework for equal rights and protection against discrimination.

22. The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina ensures that all churches and religious communities have equal rights and duties, without discrimination, and condemns all forms of intolerance and discrimination based on religion or belief. Bilateral agreements were signed with the Holy See in 2006 and with the Serbian

Orthodox Church in 2008 on the basis of this legislation. The process for a similar agreement with the Islamic Community is under way. The Interreligious Council of Bosnia and Herzegovina issued a glossary of religious terms to enhance a better understanding of diversity.

23. Religious buildings destroyed or damaged during the war in Bosnia and Herzegovina are being reconstructed. The country's Criminal Code now criminalizes the destruction of cultural, historical and religious monuments in its article 183. In 2009, 22 cases of damage to religious buildings and 6 cases of damage to burial sites were recorded by the authorities, a decline from previous years. Also in 2009, 15 criminal acts motivated by ethnic or religious hatred were recorded, a decline of 22 per cent in comparison to the previous year, and perpetrators were identified in 60 per cent of the cases.

Georgia

[Original: English]

24. Georgia reported on the legislative, administrative and other measures it has adopted to eradicate all forms of racial discrimination, including religious intolerance, which is a priority for the Government. Adding to its constitutional guarantees, Georgia adopted a Law on Freedom of Speech and Expression in June 2004. While recognizing freedom of speech and expression, the law also regulates restrictions to this right.

25. Religious minorities are protected through Georgia's Criminal Code which declares punishable the infringement on freedom of religion and protects against the insult of religious feelings of a believer. The dissemination of discriminatory, racist and xenophobic ideas by print, audio-visual and electronic media, including the Internet, is also criminalized. Moreover, racial, religious, national and ethnic motives are considered aggravating circumstances for sanctioning purposes.

26. Institutional mechanisms have been established to eliminate discrimination on the basis of religion. A Civil Integration and Tolerance Council was created in 2005 to study and analyse a wide range of initiatives in the areas of tolerance and integration and to engage society in a dialogue around these issues. In addition, a comprehensive national integration strategy and action plan is being developed by the Government to further civil integration and the protection of ethnic and religious minority rights. In 2005, the Public Defender Council of Religions was created to take effective and coordinated action against intolerance and extremism.

27. Ethical standards for law enforcement agencies prohibit discrimination and insults on racial, religious or other grounds. Law enforcement agents also receive human rights training. The Prosecutors' Code of Ethics specifically regulates hate speech.

28. Georgia guarantees freedom of expression in education. However, schools are allowed to introduce reasonable, proportionate and minimal rules to restrict students' right to freedom of expression in case of peril (which includes incitement to ethnic or religious hatred).

Guatemala

[Original: Spanish]

29. Guatemala reported that the spiritual practices of the indigenous people had historically been prohibited or disdained, but that, at the present time, freedom of religion was an integral element of the country's vision of a culture of peace and the creation of a multicultural, multi-ethnic and multilingual State. Guatemala's constitutional guarantee of freedom of religion is limited only by public order imperatives and the need to respect other beliefs. Every individual and community has the right to its cultural identity in accordance with its own values, language and customs. The specificity of Maya spirituality is also acknowledged in the Peace Agreement on the Identity and Rights of Indigenous Peoples signed by the Government of Guatemala.

30. A number of legislative, institutional and policy measures further protect freedom of religion and belief. Article 202 bis of the Criminal Code, adopted in implementation of the Durban Declaration and Programme of Action, criminalizes discrimination, including on the basis of religion, and establishes penalties from fines up to prison sentences of one to three years. The sanction is aggravated in the event of discrimination motivated by culture or ethnicity, in the event of incitement to discrimination and when discriminatory acts are committed by public service agents in the course of their duty.

31. Guatemala established the Presidential Commission on Discrimination and Racism against Indigenous Peoples in Guatemala (CODISRA) to overcome cultural racism, negative stereotyping and discriminatory practices through information campaigns and media monitoring. In 2008, a public information campaign touted the message "Overcome prejudice and celebrate diversity" and advocated the acceptance of all aspects of identity, including language, dress, spiritual practice, religion and cultural traditions. From 2006 to 2009, CODISRA also organized workshops for opinion-makers, which addressed religious bias and bigotry as well as racist speech about indigenous peoples, their beliefs and spirituality.

32. The Guatemalan Ministry of Culture and Sports has adopted a long-term national plan for cultural development, which includes marking important dates on the Maya calendar and organizing informational events on cultural expression. The Ministry also works with public and private schools to educate students about the spiritual beliefs and practices of the Maya.

Islamic Republic of Iran

[Original: English]

33. The Islamic Republic of Iran noted that Iranian society was a successful example of fraternal and friendly cohabitation between different people. Equal rights are guaranteed by article 19 of its Constitution. Dialogue among religions, a State policy ratified by the State Expediency Council, fosters mutual understanding, strengthens common ground and prevents religious feuds.

34. The Islamic Human Rights Commission, established in 1994 to protect and promote human rights, has implemented a number of initiatives to combat ethnic

and religious discrimination and to promote harmony and tolerance while maintaining and reinforcing national solidarity and culture.

35. The Islamic Republic of Iran expressed its deep concern over what it described as the rising trend of discrimination on the basis of religion in some western countries, as well as increasing Islamophobia and xenophobia. Invoking reports by human rights entities, Iran pointed to instances of intolerance, discrimination and acts of violence motivated by the religion of the victim. The Islamic Republic of Iran submitted that the demonic portrayal of Islam and Muslims had caused tremendous suffering. Ascertaining a correlation between defamation of religions and the upsurge in incitement, intolerance and hatred, the Islamic Republic of Iran called for the adoption of national action plans and sustained campaigns to root out defamation of religions.

Kazakhstan

[Original: English]

36. Kazakhstan reported that it had established a legislative framework to guarantee equal rights for all citizens, regardless of their religious or ethnic background, in collaboration with the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe.

37. In 2007, Kazakhstan adopted a programme to guarantee religious freedom and improve relations between the State and religions. In addition to the programme, working groups on agitation and propaganda have sought to strengthen a culture of tolerance. The Government's Council on Relations with Religious Bodies, the Committee for Religious Affairs of the Culture Ministry, and the Ombudsman, in cooperation with non-governmental organizations and religious groups, have worked to further resolve possible conflicts between non-traditional religious organizations and local authorities.

38. Kazakhstan reported that it had hosted the Congress of Leaders of World and Traditional Religions in 2003, 2006 and 2009. The third Congress, which resulted in the adoption of a global appeal, addressed the role of religious leaders in building a world based on tolerance, respect and cooperation.

Romania

[Original: English]

39. Romania presented information on its constitutional provisions guaranteeing freedom of religion. The Romanian National Council for Combating Discrimination is mandated to sanction all forms of discrimination.

40. As for legislative measures, article 40 of Law No. 504/2002 on the Audiovisual forbids the broadcasting of programmes containing incitement to hatred on the grounds of race, religion, nationality, gender or sexual orientation. Moreover, the National Council of the Audiovisual is authorized to withdraw a broadcaster's audio-visual licence in the event of incitement to national, racial or religious hatred. Law No. 489/2006 ensures religious freedom for individuals as well as institutions

and forbids any forms, means, acts or actions of defamation or religious hatred, as well as public offence against religious symbols.

41. Romania has also invoked a number of executive decisions that seek to prevent and sanction all forms of discrimination, including discrimination on the basis of religion, and to combat incitement to national, racial or religious hatred. The Emergency Government Ordinance No. 31/2002, for example, bans organizations and symbols of a fascist, racist or xenophobic character.

Russia Federation

[Original: Russian]

42. The Russian Federation pointed out that its Constitution prohibits all forms of discrimination. Article 19 guarantees equal rights for all citizens, regardless of sex, race, nationality, language, origin, property, official status, place of residence, religion, belief, membership in public associations, or any other circumstance. Freedom of religion or belief is protected by article 28 of the Constitution. Article 55 (3) stipulates that human rights may be limited by federal law when necessary for the protection of the Constitution, morality, health, the rights and lawful interests of other people, in defence of the country, or for the security of the Russian State.

43. Article 13 (5) prohibits the creation and activities of public associations aiming to instigate social, racial, national or religious discord. Article 29 (2) prohibits propaganda or agitation that incites social, racial, national or religious hatred and hostility and bans propaganda of social, racial, national, religious or linguistic superiority. While article 29 (4) guarantees freedom of mass communication and prohibits censorship, this freedom may not be abused to incite, inter alia, national, social, religious hatred or hostility. A federal law of 2002, on countering extremist activities, which was amended in 2006 and 2007, further addresses in detail incitement to racial, national or religious hatred and hostility, as well as the propaganda of superiority theories based on social, racial, national, religious or linguistic affiliation.

44. The Russian Federation also reported on provisions in its Criminal Code to protect against acts of racial, national and religious discrimination. Article 63 considers as an aggravating factor the commission of a crime for reasons of national, racial or religious hatred or enmity. Article 282 of the Code envisages sanctions for actions that incite hatred and humiliate human dignity.

45. The Russian Labour Code further prohibits discrimination in the workplace. The Family Code prohibits any limitation to citizens' rights to enter into marriage based on social, racial, national, linguistic or religious affiliation. The Law of Education of 1992 ensures equality with regard to access to education.

Serbia

[Original: English]

46. The Republic of Serbia, which considers respect for diversity a State objective, reported on its constitutional guarantees against discrimination on the basis of religion or belief, citing articles 21, 49 and 81 of the Serbian Constitution.

Constitutional protections are further strengthened by legislation such as the Law on the Prohibition of Discrimination and the Law on Churches and Religious Communities. The latter protects religious places, sites and shrines. It also stipulates that no one shall be harassed or discriminated against because of her or his religious beliefs, and enables positive discrimination in favour of religious communities with small congregations.

47. The Law on the Foundations of the Education System seeks to enhance mutual respect among different groups by encouraging children to cherish diversity. Serbia has hosted a number of events to promote understanding and respect, such as on the theme "European religious cultural heritage days". Training courses on human rights and minority rights are routinely organized for civil servants and emphasize the prohibition of discrimination. Information was also provided concerning respect for different religions and religious practices in the Serbian Armed Forces.

48. In terms of media broadcasting, legal provisions encourage programmes that foster religious tolerance. Following the agreement between the Radio Television of Serbia and representatives of traditional religions and religious communities, certain programmes are focused on the heritage of different religious communities.

49. Article 174 of the Serbian Criminal Code declares punishable with a fine or imprisonment up to one year the ridiculing of an individual or a group on racial, religious, ethnic or national grounds. Article 317 of the Criminal Code specifically criminalizes incitement to hatred. In 2008, 83 charges were filed alleging incitement to hatred. In 11 cases, the charges were dropped; in 40 cases the suspects were prosecuted; and in 31 cases the offenders could not be identified. Mockery of national, ethnic or religious symbols and the desecration of monuments, memorials or graves constitute aggravating circumstances for which the offender is punished with imprisonment of one to eight years. In 2008, 107 cases of desecration of graves were recorded. The Ministry of Religion has repeatedly condemned violence against places of worship of all religious communities.

50. Serbia submitted that 150 places of worship of the Serbian Orthodox faith, including churches and monasteries, had been destroyed in Kosovo and Metohija since it had come under the interim administration established in accordance with Security Council resolution 1244 (1999). According to its report, 10,000 icons, religious artefacts and objects used in religious service had been damaged or looted, while 256 Serbian Orthodox graveyards and 5,261 tombstones had been desecrated, leaving about 50 graveyards without undamaged tombstones. Serbia alleges that those acts were a way to blot out Christian cultural identity from Kosovo and Metohija.

Spain

[Original: English and Spanish]

51. Spain informed that it does not recognize the concept of defamation of religions because only individuals, and not religions, can be rights holders. Spain does, however, have advanced legislation to protect against incitement to religious hatred. In the 1998 case involving a bookseller who was put on trial for denial of crimes of genocide, the Spanish Constitutional Court deemed that the denial of historical facts as such was protected under the freedom to conduct scientific

research, which was, in turn, a form of freedom of expression. Nevertheless, denial statements deliberately intended to create hostility, to libel, defame, humiliate or to incite violence or hatred towards any group qualified under article 510 of the Criminal Code, which punishes, with a fine or prison sentence, anyone who incites discrimination, hatred or violence towards any group or association for reasons of racism, anti-Semitism or any other grounds based on ideology, religion or belief, or anyone who, knowing it to be false or showing reckless contempt for the truth, disseminates offensive information about groups or associations in connection with their ideology, religious beliefs or their members' ethnicity, race or national origin.

52. Article 523 of the Spanish Criminal Code punishes with imprisonment anyone who uses violence, threats, commotion or assault to impede, interrupt or disrupt religious acts, functions, ceremonies or celebrations. When the offence is committed in a place of worship this constitutes an aggravating circumstance. Article 524 condemns acts of profanation offensive to religious beliefs in a place of worship or during a religious ceremony and article 525 punishes anyone who, with the intention of offending members of a religious denomination, publicly mocks their dogmas, beliefs, rites or ceremonies. The same provision applies to offences towards those who do not profess any religion or belief. Article 607 also punishes crimes related to the total or partial destruction of national, ethnic, racial or religious groups, such as murder, assault, sexual assault and the dissemination, by any means, of any doctrine that denies or justifies such offences.

Switzerland

[Original: French]

53. Switzerland, recalling its contribution of 16 July 2009 to the report of the United Nations High Commissioner for Human Rights on defamation of religions (A/HRC/13/57), submitted to the Human Rights Council at its thirteenth session, reported that incitement to racial, ethnic or religious hatred was punishable under article 261 bis of the Swiss Criminal Code, which places limitations on freedom of expression for the protection of the dignity and honour of others.

54. The Government of Switzerland has adopted a series of measures to prevent incitement to hatred, such as information and educational campaigns. Since 2001, the Service against Racism has funded 800 projects against racism, anti-Semitism and xenophobia. The Federal Commission against Racism, created in 1995, has strived to eradicate racism and hatred through awareness-raising initiatives. The website of the Federal Commission against Racism includes a compilation of jurisprudence concerning article 261 bis of the Swiss Criminal Code and contains summaries of all sentences invoking this article.

55. Article 28 of the Swiss Civil Code protects individuals from illicit attacks on their personality. The concept of "personality" is construed as the set of values inherent to every human being. This article also protects individuals from defamation.

56. In its contribution, Switzerland rejected the notion of defamation of religions as a contemporary form of racism, noting that human rights ought to protect individuals only and that existing standards sufficiently address incitement to hatred. Switzerland noted that the concept of defamation of religions was not recognized in international law. It further expressed the view that recognizing the

concept of defamation of religions as a contemporary form of racism would de facto alter the definition of racism by adding a religious dimension, which it does not, at present, include.

Togo

[Original: French]

57. Togo reported that its Ministry of Territorial Administration, Decentralization and Local Collectivities has started drafting legislative proposals aimed at establishing a regulatory framework for issues related to religion and the promotion of a culture of peace. In addition, financial support is being sought for projects involving religious leaders, with a view to fostering dialogue and peaceful coexistence among different religious communities in the country.

United States of America

[Original: English]

58. The United States of America, recalling its contribution of 12 August 2009 to the report of the United Nations High Commissioner for Human Rights on defamation of religions (A/HRC/13/57), submitted to the Human Rights Council at its thirteenth session, confirmed its position that the concept of defamation of religions was inconsistent with international human rights law since religions were not protected under human rights law and Governments had the obligation to protect freedom of expression.

59. However, the United States of America expressed its deep concern over the discrimination, targeting and ridiculing of individuals based on their religion. It also shared its concern about undue restrictions on places of worship and religious attire. In addition, it expressed that Governments have a moral responsibility to speak out and condemn intolerance when certain actions wilfully exploit tensions or perpetuate negative stereotypes.

60. The United States of America submitted that the increased targeting of members of religious minorities and interreligious violence in virtually every region of the world called for concerted action to combat discrimination and intolerance. The tools to address those scourges included robust legal protections against discrimination and hate crimes, proactive Government outreach to members of minority groups, interreligious efforts, education and the vigorous defence of freedoms of religion and expression.

61. Recognizing the legitimate concerns about intolerance and discrimination underlying General Assembly resolution 64/156 on defamation of religions, the United States of America asserted that the resolution had failed to galvanize international support for real solutions. Rather than leading to greater respect and tolerance, it had become an instrument of division. Hence, the United States of America called for a new approach by the international community, which would command consensus in a spirit of constructive dialogue and demonstrate the potential of the Human Rights Council to effectively address global problems.

III. Office of the United Nations High Commissioner for Human Rights

62. In paragraph 25 of resolution 64/156, the General Assembly welcomed the initiative of the United Nations High Commissioner for Human Rights to organize an expert seminar on articles 19 and 20 of the International Covenant on Civil and Political Rights in Geneva on 2 and 3 October 2008. The Assembly requested the United Nations High Commissioner to build on the initiative, with a view to contributing to the prevention and elimination of all forms of incitement and the consequences of negative stereotyping of religions or beliefs on the human rights of adherents and their communities.

63. In follow-up to the above-mentioned expert seminar and pursuant to paragraph 134 of the Outcome Document of the Durban Review Conference (A/CONF.211/8, chap. I), the Office of the United Nations High Commissioner for Human Rights (OHCHR) will hold, in 2011, a series of expert workshops on the prohibition of incitement to national, racial or religious hatred. The objectives of the workshops are to gain a better understanding of legislative patterns, judicial practices and policies in different regions, to discuss the state of implementation of the prohibition of incitement in conformity with international standards and to identify possible actions at all levels. The expert workshops will be held at Vienna, Nairobi, Bangkok and Santiago. Prior to the workshops, States will be invited to provide OHCHR with updated information regarding the prohibition of incitement to hatred in national legislation, judicial practices and relevant policies. Member States and representatives of non-governmental organizations having consultative status with the Economic and Social Council will be invited to participate in the workshops as observers. The Office organized briefings on the expert workshops on 14 May 2010 for Member States in Geneva, on 20 May 2010 for Member States in New York and on 17 June 2010 for non-governmental organizations in Geneva.

64. As part of its programme against racism, racial discrimination, xenophobia and related intolerance, OHCHR has taken a number of initiatives to raise awareness and encourage measures to combat discrimination, intolerance and prejudice.

IV. United Nations human rights treaty bodies

65. In paragraph 10 of its resolution 64/156, the General Assembly emphasized that, as stipulated in international human rights law, everyone had the right to freedom of expression. The exercise of that right, however, carried with it special duties and responsibilities. It might therefore be subject to certain restrictions as were provided for by law and were necessary for respect of the rights or reputations of others and for the protection of national security, public order, public health or morals.

66. According to article 20, paragraph 2, of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

67. In its examination of periodic reports, the Human Rights Committee has called on States parties to the International Covenant on Civil and Political Rights to vigorously combat any advocacy of racial or religious hatred, including political

hate speech, by intensifying public information and awareness-raising campaigns and ensuring the strict application by judges, prosecutors and the police of criminal law provisions punishing incitement to racial or religious hatred.

68. At its ninety-fourth session, held from 13 to 31 October 2008, the Human Rights Committee decided to revise its General Comment 10 on article 19 of the International Covenant on Civil and Political Rights on freedom of expression. A first reading of the draft general comment by the Committee took place in October 2009.

69. The Committee on the Elimination of Discrimination against Women has referred to the interface of religion and race when addressing discrimination against women in its concluding observations following the submission of periodic reports by States parties to the Convention on the Elimination of All Forms of Discrimination against Women. Specifically, the Committee has recognized the compounded vulnerability faced by women suffering multiple forms of discrimination based on sex and other grounds, such as ethnicity, religious affiliation or race. The Committee has, for instance, expressed concern that the ban of headscarves in schools, adopted in some countries, might increase the discrimination faced by girls and women from ethnic and religious minorities and impede their equal access to education. On other occasions, the Committee has expressed concern that prevailing trends of fundamentalism, intimidation and violence incited by non-State actors undermine the enjoyment by women of their human rights in the name of religion. Acknowledging the complex relationship between ethnicity and religion, the Committee on the Elimination of Discrimination against Women has also expressed concern about reported infringements of the right to freedom of religion as well as the risk that blasphemy laws may be used in a discriminatory manner against religious minority groups who may also be members of ethnic minorities.

70. With respect to hate speech, article 4 of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 (XX), annex) calls on States parties to the Convention to declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof.

71. Many discriminatory practices described by the General Assembly in its resolution 64/156, including stereotyping, profiling and stigmatization, are dealt with by the Committee on the Elimination of All Forms of Racial Discrimination. The Committee has made numerous references in its concluding observations to phenomena such as Islamophobia, including in reports thereon following the attacks of 11 September 2001, discrimination against Jews and Sikhs, discrimination against indigenous religions and the desecration of sacred sites, as well as other instances where it has found an overlap between religion and ethnicity.

72. In paragraph 11 of General Assembly resolution 64/156, the Assembly reaffirmed that general recommendation XV (42) of the Committee on the Elimination of Racial Discrimination (see A/48/18, chap. VIII, sect. B), in which the Committee had stipulated that the prohibition of the dissemination of all ideas based upon racial superiority or hatred was compatible with freedom of opinion and expression, was equally applicable to the question of incitement to religious hatred. In that general recommendation, the Committee on the Elimination of Racial

Discrimination referred to evidence of organized violence based on ethnic origin. In the same paragraph, the Committee drew the attention of States parties to article 20 of the International Covenant on Civil and Political Rights, which explicitly refers to religious hatred.

73. Relevant international human rights law also includes article 3 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide aimed at protecting the physical existence of religious, racial and cultural groups from incitement to violence in the most extreme meaning of that term.

74. Espousing the view that discrimination based exclusively on religious grounds does not explicitly fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination has searched for an "ethnic" or other connection or element of intersectionality between racial and religious discrimination before it has regarded its mandate as engaged.

75. This "intersection" was examined in two cases in 2007, both involving allegations of hate speech. The case of *P.S.N. v. Denmark* (2007) concerned alleged violations of articles 2, paragraph 1 (d), 4 and 6 of the Convention on the Elimination of All Forms of Racial Discrimination through statements published on a website by a Member of Parliament against immigration and Muslims, under the headline "Articles no one dares to publish". The opinions expressed were reiterated in an interview published in a newspaper, and some had been previously published in a book. The petitioner filed three complaints under the Danish Criminal Code, section 266b of which prohibits racial statements, on the grounds that the website statements targeted a specific group (Muslims), were degrading and propagandistic, and were published on a website directed at a large audience.

76. The State party argued against admissibility in that the case fell outside the scope of article 1 of the Convention in referring to Muslims, while acknowledging that it was possible to argue to a certain extent that the statements referred to second-generation immigrants and set up a conflict between "the Danes" and them, thereby falling to some degree within the scope of the Convention. The petitioner, however, contended that Islamophobia, just like attacks against Jews, had manifested itself as a form of racism in many European countries. Hatred, it was claimed, had been stirred up against peoples of Arab and Muslim background, and culture and religion were connected in Islam.

77. In its admissibility decision, the Committee observed that the impugned statements specifically referred to the Koran, to Islam and to Muslims in general, without any reference to the five grounds set out in article 1 of the Convention. Further, while the elements of the case file did not allow the Committee to ascertain the intention of the statements, it remained that no specific national or ethnic groups had been directly targeted, and that Muslims currently living in the State party were of heterogeneous origin. The Committee recognized the importance of the interface between race and religion and stated that it would be competent to consider a claim of "double" discrimination on the basis of religion and another ground specifically provided for in article 1, which was not the case with the current petition. The petition according to the Committee was based on religion alone, and Islam was not a religion practised solely by a particular group. The communication was therefore declared inadmissible. In the case of *A.W.R.A.P. v. Denmark* (2007), the Committee declared inadmissible a communication on similar grounds.

78. In 2010, at its seventy-sixth session, the Committee on the Elimination of Racial Discrimination considered its mandate engaged when it examined the situation in Nigeria under its early warning and urgent action procedure, alarmed by the reports of ethnic and religious violence near the city of Jos as a result of tensions between ethno-religious groups. The Committee strongly urged Nigeria, inter alia, to take all the appropriate measures to immediately stop the ethnic violence, to protect the victims and to avoid the repetition of such killings in the future, in compliance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.

V. Special procedures of the Human Rights Council

79. In its resolution 64/156, the General Assembly addressed, inter alia, discriminatory practices, including stereotyping, profiling and stigmatization. The independent expert on minority issues, in the course of her country visits, has cautioned against increasing Islamophobia within mainstream society, stereotypes about Muslim women that fuel anti-Muslim sentiment and counter-terrorism measures that make members of Muslim and Arab communities feel targeted and harassed. The independent expert has received reports from these minorities describing discrimination and unfair and unjust treatment by authorities and the media. Moreover, these communities have shared with the independent expert their anxiety about speaking out and their fear of a backlash when seeking avenues for redress. In her mission reports, the independent expert has called on authorities to address these concerns, to answer allegations and to build positive relations of trust (A/HRC/13/23/Add.2, paras. 66-70). The independent expert has also called for the protection of the right to self-identification, freedom of expression and freedom of association of religious minority communities and has criticized building restrictions to places of worship (A/HRC/10/11/Add.3, paras. 90 and 103; A/HRC/13/23/Add.1, para. 89).

80. The independent expert has also addressed intolerance and hatred against non-Muslims, such as members of the Baha'i faith, the Catholic Church, Jehovah's Witnesses and the Jewish community (A/HRC/10/11/Add.3, paras. 29-39). For example, the independent expert has criticized prejudice and vocal anti-Catholic sentiment including by politicians and religious leaders, incidents of desecration, anti-Semitic attacks and anti-Semitic views expressed in the extreme right-wing press, in mainstream newspapers and by public figures. The independent expert has called for aggressive manifestations of nationalism and incitement to racial or religious hatred to be met with appropriate responses, invoking positive models of intercommunity dialogue, mediation and conflict prevention (A/HRC/13/23/Add.1, para. 91).

81. The independent expert has reported on complaints by civil society and religious groups that national security agencies have stigmatized religious minorities on the grounds of the fight against extremism and terrorism. In countries where, because of historic associations, some ethnic minorities are particularly linked with certain non-traditional faiths, concern has also been expressed that discrimination against religious groups may carry an ethnic dimension (A/HRC/13/23/Add.1, para. 64).

82. Addressing the intersectionality of religion and gender, the independent expert has pointed out that sharia law should not be imposed in a way that violates the right to equality of women guaranteed under international law (A/HRC/10/11/Add.3, para. 95).

83. As requested by the Human Rights Council in its resolution 13/16, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted a report on manifestations of defamation of religions, in particular on the serious implications of Islamophobia for the enjoyment of all rights by their followers (A/HRC/15/53). In this context, he has received reports of incidents pertaining to the above-mentioned resolution. The reports appear to fall under five broad and non-exhaustive categories: (a) acts of violence or discrimination, or incitement thereto, against individuals on the basis of their religion or belief; (b) attacks on religious sites; (c) religious and ethnic profiling; (d) religious symbols; and (e) negative stereotyping of religions, their followers and sacred persons. These categories warrant different approaches under international human rights law, which provides sufficient tools to respond to all of them. In particular, the Special Rapporteur has distinguished between stereotyping of religions on one hand and of religious followers or sacred persons on the other. International human rights law protects individuals and groups of individuals and therefore guarantees the freedom of individuals and groups of individuals to exercise freely their religion or belief. However, vigorously interrogating and criticizing religious doctrines and their teachings is legitimate and constitutes a significant part of the exercise of the right to freedom of opinion or expression. The Special Rapporteur has therefore reiterated that domestic blasphemy laws aiming to protect religions per se could result in de facto censure of robust examination of religious doctrines and teachings and of interreligious and intrareligious criticism. Consequently, he has encouraged States to move away from the notion of defamation of religions towards the legal concept of advocacy of racial or religious hatred that constitutes incitement to discrimination, hostility or violence in order to anchor the debate in the relevant existing international legal framework.

84. In his latest report to the Human Rights Council (A/HRC/14/23), the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression recalled that the concept of defamation of religions did not accord with international standards regarding defamation, which referred to the protection of the reputation of individuals, while religions, like all beliefs, could not be said to have a reputation of their own. Considering that all human rights were universal, indivisible, interdependent and interrelated, the Special Rapporteur reiterated that it was conceptually incorrect to present the issue of defamation of religions in an abstract manner as a conflict between the right to freedom of religion and belief and the right to freedom of opinion and expression.

85. The Special Rapporteur on freedom of religion or belief noted that, while criticism of major religions attracted a lot of attention, numerous cases of incitement to violence against smaller religions could go relatively unnoticed (see A/HRC/13/40 and A/64/159). She argued that attention should be focused on addressing these cases of incitement to violence, in view of article 20 of the International Covenant on Civil and Political Rights, which obliged States to prohibit by law any advocacy of religious hatred that constituted incitement to discrimination, hostility or violence. However, the right to freedom of religion or belief did not include the right to have a religion or belief that was free from criticism or ridicule. The Special Rapporteur emphasized the important role of an independent judiciary, which needed to adjudicate in each particular case according to its own circumstances and taking into account the specific context. In addition, incitement to religious hatred could be an indicator of emerging tensions and the

relevant authorities should find the most effective ways to protect individuals against others' advocacy of hatred and violence.

86. In a press release issued on 28 May 2010, the Special Rapporteur on freedom of religion or belief, the independent expert on minority issues and the Special Rapporteur on extrajudicial, summary or arbitrary execution strongly condemned the targeted killings of at least 70 members of the Ahmadiyyah community in Pakistan. Noting the expressions of condemnation by senior leadership of Pakistan, United Nations experts highlighted the risk of recurring violence unless advocacy of religious hatred that constituted incitement to discrimination, hostility or violence was adequately addressed. They emphasized that it was up to the Government to ensure the security of members of all religious minorities.[2]

VI. Conclusion

87. **In its resolution 64/156 entitled "Combating defamation of religions", the General Assembly referred to a wide range of manifestations of intolerance, including acts of violence based on religion, xenophobic opinions, ideological superiority platforms, the propagation of religious hatred by extremist organizations, discrimination based on religion or belief, including multiple forms of discrimination against minorities, the stigmatization of religious communities under pretexts relating to security and irregular immigration, infringements on the right to practise one's religion freely and without fear, intimidation motivated by religious or other extremism, the negative stereotyping of certain religions by the media, counter-terrorism measures targeting Muslim and other minorities, ethnic and religious profiling, incitement to religious hatred, and the targeting of places of worship and religious symbols. In the resolution, the Assembly calls for measures to be taken by States and by the international community to prevent, combat and eradicate these scourges.**

88. **In their submissions, States reported on different elements of the resolution, focusing on the manifestations of intolerance of greatest importance to them and outlining relevant courses of action. In respect of religious defamation, some States adopted blasphemy laws while others firmly opposed such laws, considering them to be incompatible with international human rights law, a position that is also shared by the relevant special procedures of the Human Rights Council and the treaty bodies that have taken a position on the subject.**

89. **At the same time, treaty body findings and reports by special procedures of the Human Rights Council expressed alarm over discrimination and incitement to hatred against Muslim communities, while also highlighting restrictions, discrimination and incitement affecting other religious minorities in different parts of the world.**

90. **Intersectional identities that combine race or ethnicity with religious affiliation, and the multiple forms of discrimination resulting from this intersectionality were also increasingly recognized, as illustrated by the recent decision on Nigeria of the Committee on the Elimination of Racial**

[2] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10074&LangID=E.

Discrimination. The body of case law of the Committee on the Elimination of All Forms of Racial Discrimination nevertheless has shown that the Committee has only regarded its mandate engaged when religious grounds of discrimination were invoked in addition to the explicit grounds of race, colour, ethnicity, national or ethnic origin enumerated in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

91. **Finally, the Office of the United Nations High Commissioner for Human Rights, through a number of initiatives, has been seeking to make a concrete contribution to the prevention and the elimination of incitement to national, racial or religious hatred and to the fight against Islamophobia and other forms of intolerance.**